IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

CRL.A.No. 121 of 1999

CC.554/1997 of JUDL.MAGISTRATE OF FIRST CLASS-III, KOTTAYAM

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APPELLANT/COMPLAINANT:

CENTRAL ADVERTISING AGENCY, ANAND THEATRE BUILDINGS, KOTTAYAM REPRESENTED BY ITS PARTNER MATHEW GEORGE, S/O.GEORGE MATHEW, MALIEKKAL, UNION CLUB ROAD, KOTTAYAM.

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENTS/ACUSED:

1. JAYAKUMARI, PROPRIETRIX, SANCO FOOD FORMATIONS, MADAM ILLAM, KOTTAYAM - 686 003.

2. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.K.JAGADEESCHANDRAN NAIR
SRI.J.KRISHNAKUMAR
R2 PUBLIC PROSECUTOR SHRI K.C.SANTHOSH KUMAR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Crl. Appeal No.121 of 1999

Dated this the 31st day of January, 2007

Judgment

This appeal is filed by the complainant under section 138 of the Negotiable Instruments Act against acquittal of the accused under section 256 of the Code of Criminal Procedure. The case was posted for evidence. On 27.10.1998, the complainant was absent. Immediately, the accused was acquitted despite application filed by the complainant for exemption. In this case, it is the case of the complainant that his father was seriously ill and he died within three days from the date of posting. Dismissal of the complaint under section 256 (1) of Cr. P.C. should not be done mechanically. In this case, the complainant has given sufficient reasons for his absence.

In the above circumstances, the impugned order is set aside and the matter is remanded to the court below. Parties shall appear before the court below on 26.3.2007 for proceeding further according to law.

J.B. KOSHY
(JUDGE)

vaa

J.B.Koshy J.

Crl.A. No.121 of 1999

Judgment

31-1-2007